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Letter dated 3 May 2010 from the Permanent Representative of Mexico to the United Nations addressed to the President of the Security Council

Following a petition from the Government of Eritrea during my visit to the Horn of Africa region as Chairman of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea, I have the honour to transmit herewith a letter from the Minister for Foreign Affairs of Eritrea, Osman Saleh, with the request to kindly circulate it as a document of the Security Council (see annex).

(*Signed*) Claude **Heller**
Ambassador
Permanent Representative

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Please recycle

Annex to the letter dated 3 May 2010 from the Permanent Representative of Mexico to the United Nations addressed to the President of the Security Council

24 April 2010

Please accept Eritrea's submission to the United Nations Security Council which includes the following documents:

- Eritrea's stance on Security Council resolution 1907 (2009) (enclosure I)
- Submissions of Eritrea to the Security Council on Ethiopia's military occupation of sovereign Eritrean territory (enclosure II)
- Eritrea's position on relations with Djibouti (enclosure III)
- Eritrea's submission to the Security Council on peace and justice in Somalia (enclosure IV)
- Relevant attachments

I request you to circulate Eritrea's submission as a document of the Security Council.

(*Signed*) Osman **Saleh**
Minister for Foreign Affairs

Enclosure I

Eritrea's stance on Security Council resolution 1907 (2009)

Through resolution 1907 (2009), the United Nations Security Council adopted a package of sanctions against Eritrea on 23 December 2009. As Eritrea elucidated at the time, as well as through various communications to the Security Council and other United Nations Member States in the subsequent period, the sanctions resolution is not based on fact and law. No solid evidence was presented proving that Eritrea was guilty of perpetrating grave acts that threaten regional and international peace in contravention of, and as stipulated in, the Charter of the United Nations. The truth is Eritrea has been and remains the aggrieved party.

Resolution 1907 (2009) is in essence a political act that has nothing to do with international law and justice. As Security Council members know and readily admit, it was pressed on the Security Council by the United States, which has long harboured antipathy towards Eritrea. The timing itself was not coincidental or merely auspicious but represents a culmination of the unprovoked, concerted and multifaceted efforts directed against Eritrea, principally by the United States, for the past years for a variety of reasons (see attachment 4).

In 1998, Eritrea's hard-won independence was put to a test under a spurious border dispute. Ethiopia's military aggression was ultimately thwarted after a costly war that lasted two years (from 1998 until 2000 intermittently), and, that exacted huge loss of life and destruction of property. But even when Ethiopia's military adventures were decisively frustrated, peace was not fully restored in accordance with the provisions of the Algiers Peace Agreement reached between the two parties under the auspices and explicit guarantees of the Security Council in December 2000.

Under the diplomatic umbrella and protection of the United States, Ethiopia continued to brazenly violate the Charter of the United Nations and defy international law by refusing to comply with the final and binding rulings of the Eritrea-Ethiopia Boundary Commission. Early in July 2003, Ethiopia refused to respect Security Council resolution 1430 (2002) that expressly requested it to dismantle within 30 days the new settlements that it had created in the Dembe Mengul territory of Eritrea in violation of the Algiers Peace Agreement. Again on 19 September 2003, Ethiopia's Prime Minister wrote an impudent letter to the Security Council rejecting the Boundary Commission decision as unjust, irresponsible and unacceptable and urging the United Nations to devise an "alternative mechanism" (attachment 2). In the subsequent period to date, Ethiopia continued to occupy the town of Badme and other sovereign Eritrean territories in flagrant breach of the Algiers Peace Agreement and other provisions of international law (including the Charters of the United Nations and the African Union) that uphold the sovereignty and territorial integrity of Member States and the inviolability of arbitral decisions.

Ethiopia's reprehensible acts were tolerated with impunity by the Security Council for eight long years due to overbearing United States political and diplomatic clout and influence. Former Permanent Representative of the United States to the United Nations, John Bolton, has revealed that "For reasons that (he) never understood, [the State Department's Africa Chief] Frazer had reversed course

and asked to reopen [at the United Nations] the 2002 Eritrea-Ethiopia Boundary Commission decision, which she had concluded was wrong". But this tenuous position could not be maintained for long and the United States spared no efforts to find "plausible" pretexts so as to divert international attention and to portray and demonize Eritrea as a "pariah State bent on destabilizing the Horn of Africa region".

Eritrea's differences — that were often candidly and publicly expressed — with the United States on its regional policies and practices was another factor that fuelled the hostility and retribution of the latter. Both in Somalia and the Sudan, United States policies and practices were not geared at promoting durable solutions on the basis of inclusive political reconciliation processes anchored on the local protagonists. United States ill-advised policies in Somalia that oscillated from bankrolling and arming warlords to instigating and condoning Ethiopia's military invasion of the country have exacerbated the crisis in Somalia. (See remarks attributed to the then Assistant Secretary of State for Africa, Dr. Jenday Frazer, to United Nations officials in Addis Ababa, six months before the Ethiopian invasion of Somalia, to the effect that "if Ethiopia intervened in Somalia, it would be a mistake for the international community to condemn it".)

As it may be recalled, Eritrea had vehemently opposed Ethiopia's illegal invasion of Somalia as this was fraught with undermining prevalent regional endeavours at cultivating consensus, further polarizing the region, and jeopardizing the prospects of peace and stability (attachment 3). In the same vein, United States policies in the Sudan were often counterproductive against the yardstick of durable regional peace and stability. Because Eritrea consistently called for a different and more constructive American approach to the interlocking regional issues, successive United States Administrations vented their wrath on Eritrea and vowed to "punish" it. According to Dr. Frazer, "Eritrea has lost legitimacy in the region. (They have) crossed the red line in Somalia by supporting extremists, and they will pay for it." This is indeed the real backdrop behind United States lopsided hostilities towards Eritrea.

In the political and diplomatic manoeuvrings conducted to solicit the adoption of resolution 1907 (2009), the accusations levelled against Eritrea were invariably characterized by innuendos, fabrications and murky "evidence". The sources were never made public or divulged, at least to Eritrea. In so far as Eritrea understands, their credibility and motivation and the veracity of their allegations were not ascertained thoroughly and objectively. The accusations seemed to shift fulcrum almost whimsically. In its first report in 2006, for instance, the Somali Monitoring Group falsely maintained that Eritrea had sent 2,000 soldiers to Somalia. Although Eritrea expressly asked for rectification and remedies against unsubstantiated accusations and smear campaigns, its pleas continued to be routinely ignored. What is worse, the Somali Monitoring Group persisted on heaping other equally outrageous allegations against Eritrea in its periodic reports. In the weeks prior to the adoption of resolution 1907 (2009), the allegations of "provision of weapons to Somali insurgents" was first peddled and then dropped and supplanted by presumed "political and financial assistance". This was again eclipsed by the novel accusation of Eritrea's reluctance to "cooperate" in the Somali peace process. Eritrea's sovereign rights to formulate its own independent views on the nature and remedies of the Somalia crisis could not possibly be the dominant factor in imposing sanctions against it. But utterly untenable as this proposition might appear, the fact

is it was feverishly invoked to cajole the Security Council to adopt resolution 1907 (2009).

The dynamics of the process through which resolution 1907 (2009) was adopted is another critical element that underscores clearly the political nature of the act. Article 39 of Chapter VII of the Charter of the United Nations allows the Security Council to determine the existence of any threat to the peace, breach of the peace, or act of aggression and to make recommendations or decide what measures shall be taken in accordance with Articles 41 and 42 or to restore international peace and security. This authority, which must be exercised with extreme circumspection and without any political bias in situations of grave danger to international peace and security, rests solely on the Security Council. It cannot be delegated to regional or other subordinate organizations. In regard to resolution 1907 (2009) however, the United States first ensured its adoption by IGAD when that organization was chaired by Ethiopia. It then lobbied African Union member States at the summit in Sharma-el-Sheikh in June 2009 to secure its adoption. These resolutions were subsequently invoked as decisive and conclusive evidence of Eritrea's culpability and resolution 1907 (2009) was adopted in a rush on the eve of Christmas last year without giving Eritrea the right of self-defence.

It must also be emphasized that resolution 1907 (2009) cannot be justified on the basis of the reports of the Somalia Monitoring Group. Leaving aside whether the reports of this group are credible or not, the Monitoring Group had and continues to implicate a number of countries — including Ethiopia, Kenya, etc. — for violation of the arms embargo in its reports. But for considerations that defy reason, the Security Council has ignored the reports in as far as the other countries are concerned.

In some respects, resolution 1907 (2009) also contravenes the Charter of the United Nations itself. The military embargo it has imposed against Eritrea violates the provisions of Article 51 of the Charter on the "inherent right of self-defence" in the case of aggression and occupation. For the Security Council to keep mum while Ethiopia continues to occupy by force sovereign Eritrean territories and impose at the same time a military embargo on Eritrea cannot be legally tenable. Additionally, the wrong signal it sends and the dangerous situation it can set in motion is palpable.

In the same vein, the "targeted sanctions" against Eritrea's "political and military" leadership are not hinged on law or evidence but mainly pursued to obstruct Eritrea's diplomatic engagement and hamper its development objectives and aspirations.

The people and Government of Eritrea thus totally reject this resolution which is devoid of any legal or moral justifications and whose outcome can only be to exacerbate the tragic situation and human suffering in our region. They urge the Security Council to revoke and annul it altogether.

Enclosure II

Submissions of Eritrea to the Security Council on Ethiopia's military occupation of sovereign Eritrean territory

Eritrea has been continually appealing to the Security Council to invoke Chapter VII of the Charter to compel Ethiopia to comply with its treaty obligations virtually since the Eritrea-Ethiopia Boundary Commission announced its border delimitation award in April 2002. Eritrea's submissions originate from the explicit stipulation inserted in the Algiers Agreement as well as from provisions of international law on the respect of the sovereignty and territorial integrity of a United Nations Member State.

Eritrea's appeals to the Security Council are based on two legal provisions:

(i) Article 39 of the Charter that empowers the Security Council to decide on appropriate measures in the event of "the existence of any threat to the peace, breach of the peace, or act of aggression";

(ii) Paragraph 14 of the Cessation of Hostilities Agreement that additionally empowers the Security Council, as a guarantor of the Algiers Peace Agreement, to take punitive measures against the transgressing party in accordance with Chapter VII of the Charter.

International law prohibits the forcible occupation of the territory of one State by another. Article 2 (4) of the Charter of the United Nations summarizes this general principle when it states:

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Article 1.1. of the Algiers Agreement further states:

> The parties shall permanently terminate military hostilities between themselves. Each party shall refrain from the threat or use of force against the other.

By continuing to occupy Eritrean territory, through the use of military force, for almost eight years after the boundary was definitively announced, Ethiopia has violated both Article 2 (4) of the Charter and article 1.1. of the Algiers Agreement. Ethiopia's continued occupation of the sovereign Eritrean town of Badme and other Eritrean territories along the common border of the two countries constitutes therefore a flagrant violation of the Charter and other cardinal principles of international law.

As the boundary dispute, which was wilfully instigated by Ethiopia in the first place, was ultimately referred to an arbitral decision in accordance with Article 33 of the Charter on the pacific settlement of disputes and pursuant to the binding modalities spelled out in the Algiers Agreement signed by both parties, Ethiopia's blatant refusal to abide by and implement the Boundary Commission decision is further in breach of Article 2 (3) of the Charter which states: "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered".

As intimated above, the border conflict did not erupt because there was good-faith dispute between the parties emanating from inherent ambiguities in the century-old border treaties. As is the norm in Africa, the Eritrea-Ethiopia boundary was crystallized during the European colonization period clearly defined as it was by the treaties of 1900, 1902 and 1908 entered between the powers vying for colonial control at the time. The border had stood the test of time and Eritrea's borders remained well-defined and constant during the Italian colonial period (1890-1941); the British Military Administration (1941-52); and the subsequent periods of United States-engineered Federation and subsequent annexation of Eritrea by Ethiopia.

In mid-1997, the Ethiopia regime began to encroach on sovereign Eritrean territories in a stealth and provocative manner for reasons better known to itself. In April 1997, Ethiopian troops occupied the town of Adi Murug in Eritrea's central zone under the spurious pretext of giving "hot pursuit" to an Afar Ethiopian opposition armed group. Similar territorial encroachments occurred in the Badme areas in western Eritrea. Although Eritrea had no reason to suspect foul play at a time when bilateral ties between the two countries were excellent, the baffling developments were nonetheless grave enough to push the Eritrean President to send a number of hand-written letters to the Ethiopian Prime Minister asking him to take appropriate remedial measures (attachment 1). The presumption on the Eritrean side was that these acts, grave as they were, could not have been sanctioned by the central government and were probably the reckless contrivances of local officials.

Subsequent developments however proved that these were well-thought-out and coordinated acts that purported to create facts on the ground to redraw the century-old boundary. This is illustrated by the following sequence of events:

1. Following the letters of President Isaias to Prime Minister Melles, both sides formed a high-level bilateral boundary commission in August 2007 with authoritative powers to investigate the border incidents and resolve the "disputes" amicably on the basis of law and fact. However, Ethiopia began to drag its feet and the Joint Border Commission could not achieve any tangible results. Scheduled meetings were often postponed and substantive issues could not be discussed during the rare occasions when the Commission met.

2. In January 1998, Ethiopian troops penetrated deep inside sovereign Eritrean territories in the Assab region to occupy a significant post. This incursion threatened a dangerous military showdown between the armed forces of the two countries. The potential military confrontation was averted when the Ethiopian Chief of Staff of the Armed Forces ordered the contingent to pull back to its ordinary posting.

3. On 6 May 1998, Ethiopian militia forces encircled an Eritrean military unit in the Badme area and killed five officers and soldiers. This incident provoked local skirmishes in the next two days.

4. On 14 May 1998, the Ethiopian regime exploited the skirmishes that it had provoked in the first place to declare war against Eritrea through a resolution of its Parliament. It called for generalized mobilization; deployed its troops on various strategic sectors along the 1,000-km-long common boundary.

5. On 5 June 1998, Ethiopia escalated the border war by sending its jet bombers to bomb Asmara, Eritrea's capital.

In the space of one year, Ethiopia thus managed to transform a non-existent "border dispute", which could have been resolved through bilateral negotiations or other peaceful arbitral means had it been triggered by differing misinterpretation of the treaties, into a dangerous conflict that continued for two years until May 2000 to claim more than 150,000 lives and entail much destruction of property. During this time, Ethiopia launched three huge offensives against Eritrea. In all three offensives, Ethiopia invariably breached with impunity peace accords that were mostly brokered by the United States thereby betraying the complicity of the latter in Ethiopia's designs. The Moratorium on Air Strikes that President Clinton secured between the two parties in July 1998 was violated by Ethiopia on 6 February 1999 to launch its second offensive. The United States acquiesced in Ethiopia's aggression, limiting its reaction to a mild verbal rebuke. Again on 12 May 2000, Ethiopia launched a huge offensive against Eritrea in blatant violation of the peace agreement (the Technical Arrangements) that were brokered principally by the United States, the European Union and OAU. The Technical Arrangements was a comprehensive peace framework presented to the sides as a "take it or leave it package" and that included punitive measures against the recalcitrant party. The peace brokers were senior United States and European Union officials — led by Mr. Anthony Lake, the former Head of the National Security Agency from the United States side. But as in previous cases, the peace formulas were not designed for implementation. In hindsight, it is clear that they consisted of nothing more than ruses wilfully crafted in order to give Ethiopia more time to complete its military preparations.

Ethiopia's spiralling offences exacted a huge loss of life on both sides. But they did not achieve Ethiopia's singular objective of "downgrading Eritrea's defensive capabilities" so as to impose terms and conditions that would severely erode and compromise its political sovereignty and territorial integrity. These were the indelible realities that ultimately led to the signing of the comprehensive Algiers Peace Agreement between the parties in Algiers on 12 December 2000. Among other things, the Algiers Peace Agreement laid down unequivocal provisions for the legal settlement of the boundary dispute through an arbitral body; for the deployment of a United Nations monitoring force until the delimitation and demarcation of the boundary by the Boundary Commission; and most important of all, stipulated in non-equivocal terms that the Security Council would take punitive measures against the transgressing party should the Algiers Agreement be violated.

The Eritrea-Ethiopia Boundary Commission, formed subsequently in accordance with the terms and conditions of the Algiers Peace Agreement, rendered its delimitation decision on 13 April 2002 after a lengthy litigation process between the parties over a period of 14 months. In delivering the Award to the Parties, the Commission President, Sir Elihu Lauterpacht, solemnly noted: "The Commission recalls that the Parties have agreed that the Commission's Decision on the delimitation is final and binding, and that the Parties have agreed to respect the border identified by the Commission. The Commission considers that the fact that it must now proceed to demarcate the boundary in accordance with the December 2000 Agreement does not qualify the immediate effect of the determination of the boundary between the Parties and the limits of their respective sovereignties. The Commission expects that the Parties will act accordingly. The process of demarcation will be facilitated by the expeditious redeployment of the military

forces and civil administration of the Parties to conform to the borderline identified by the Commission."

Ethiopia did not only comply with these instructions, but began to obstruct demarcation of the boundary through various subterfuges. And on 19 September 2003, Ethiopia's Prime Minister wrote a letter to the Security Council openly declaring his government's rejection of the Boundary Commission award (attachment 2). This was a blatant violation of article 4.15 of the Algiers Agreement, which states: "The parties agree that the delimitation and demarcation determinations of the Commission shall be final and binding. Each party shall respect the border so determined, as well as the territorial integrity and sovereignty of the other party". Ethiopia's requests for an "alternative mechanism" to alter the boundary decisions by resorting to other new parameters were also contrary to article 4.2. of the Algiers Peace Agreement, which stipulated: "The parties agree that a neutral Boundary Commission composed of five members shall be established with a mandate to delimit and demarcate the colonial treaty border based on pertinent colonial treaties (1900, 1902 and 1908) and applicable international law. The Commission shall not have the power to make decisions *ex aequo et bono*".

Ethiopia's gross violations of the Algiers Peace Agreement, and its supercilious obstruction of the Boundary Commission from performing its remaining tasks of demarcation warranted timely and effective punitive measures from the Security Council on the basis of Chapter VII of the Charter in order to secure its compliance with its treaty obligations. But this never transpired because the United States continued to extend its protective diplomatic and political umbrella to Ethiopia. Gradually, the Security Council and the United States Government began to openly accommodate Ethiopia's violations of the Algiers Peace Agreement and even embraced the notions of "special envoys" to tamper with and supplant the Boundary Commission and its decisions. These exercises wasted more time, contributed to postpone peace and to aggravate the tension between Eritrea and Ethiopia.

Faced with insurmountable obstructions, the Boundary Commission, for its part, ended its operations on 25 August 2008 by filing its twenty-seventh and final report to the Secretary-General. In its final report, the Commission stated: "the Commission has now concluded all administrative matters connected with the termination of its mandate. It now considers itself *functus officio*." The Commission had earlier communicated to the parties and to the United Nations Cartographic Office the detailed coordinates of the boundary stating: "the Commission hereby determines that the boundary will automatically stand as demarcated by the boundary points listed in the Annex hereto and that its mandate can be regarded as fulfilled". The Commission invoked the Iraqi-Kuwait border demarcation process as a precedent; modern technological advances that ensured the accuracy of the procedure; as well as its various applications in other areas to underscore "the feasibility and acceptability of the use of coordinates as a means of identifying international borders".

Ethiopia's continued occupation of sovereign Eritrean territories long after the Boundary Commission has terminated its functions cannot thus be justified by any considerations. Eritrea accordingly urges the Security Council to discharge its responsibilities and take punitive sanctions against Ethiopia until and with the aim of ensuring its total withdrawal from all occupied Eritrean territories.

Enclosure III

Eritrea's position on relations with Djibouti

The Security Council in resolution 1907 (2009) requested Eritrea, among other things, to:

(1) Withdraw its forces and all their equipment to the positions of the status quo ante, and ensure that no military presence or activity is being pursued in the area where the conflict occurred in Ras Doumiera and Doumiera Island in June 2008;

(2) Acknowledge its border dispute with Djibouti in Ras Doumiera and Doumiera Island, engage actively in dialogue to defuse the tension and engage also in diplomatic efforts leading to a mutually acceptable settlement of the border issue.

These requests, and the particular manner in which they have been coached, are baffling indeed. Has Eritrea occupied sovereign territories claimed by Djibouti? Which are these areas? Can they be identified with precise coordinates? How were they ascertained? What does withdrawal of Eritrean forces to the status quo ante mean and imply? Can the Security Council arbitrarily deny Eritrea its inalienable right to move its troops within its sovereign territory in a manner and timing of its choice? Is Eritrea obliged to "acknowledge a border dispute" if this does not exist in reality and if it sincerely believes and knows that this is indeed a trap?

The truth of the matter is, there is no good faith "border dispute" between Djibouti and Eritrea. The putative "border dispute" was contrived by United States Administration officials in order to deflect attention from Ethiopia's occupation of sovereign Eritrean territories and to find new pretexts to blame and corner Eritrea. The transparent "operation" revolved around igniting skirmishes and amplifying them out of all proportion through an intensive and concerted media campaign to portray and victimize Eritrea as a "source of regional destabilization".

As Eritrea explained on various occasions, the precise timing and dynamics through which this issue came to the surface are in themselves illustrative of these objectives:

- Eritrea became aware of this "dispute" through a third party when the President of Djibouti made a telephone call to the Amir of Qatar asking him to use his "good offices to resolve the dispute". Why did Djibouti resort to this indirect approach? Was this initial phone call prompted by misinformation and designed to seek mediation through the good offices of a mutual friend? Or was it prompted by a plan to create a *fait accompli*? (Subsequent developments have inevitably shed light on the answer to these questions.)

- What must be highlighted is the coincidence or sequencing of this issue with other destabilizing developments in the region. In February that year, Ethiopia had deployed, apparently with the acquiescence and complicity of Djibouti, long-range artillery weapons on Mount Musa Ali although this strategic highpoint represents the meeting point of the boundaries, and is shared by all three countries, Eritrea, Ethiopia and Djibouti. The United States itself had begun, at more or less the same time, to expand its military presence in Djibouti through repeated forays into the northern parts of the country.

- In relation to the phone call by the President of Djibouti to the Amir of Qatar, the other baffling dimension is why was President Guelleh reluctant to talk to President Isaias? Especially in view of the fact that bilateral ties were excellent at the time.

- The President of Eritrea promptly called the President of Djibouti to enquire about the matter and to express his belief that "if there was indeed a border problem, the matter could have been resolved bilaterally without resorting to third parties". President Isaias further assured President Guelleh that Eritrean troops had no reason to cross the border and that they had not done so.

- In spite of these conversations, President Guelleh went to the Djibouti-Eritrea border on the next day escorted by a contingent of the country's armed forces. In retrospect, it is clear that this act too was taken in order to ratchet up the tension.

- The Government of Eritrea was concerned by these preoccupying developments. It continued to communicate to the Djibouti Government, through appropriate channels, and through the French Government, its desire and commitment to prevent any deterioration of the situation.

- But Djibouti unleashed and persisted in waging intense and hateful diplomatic campaigns. It recalled its Ambassador to Eritrea and expelled Eritrea's Ambassador to Djibouti. It began to stigmatize and harass Eritrean residents in Djibouti. And a few days later, it reinforced its units along the border.

- After a few weeks, Djibouti army units freshly deployed in the border launched a surprise attack on Eritrean units.

- In an apparently orchestrated and well-planned diplomatic campaign, the United States State Department issued, within hours of the Djiboutian attack, a statement condemning Eritrea for attacking Djibouti. In the same vein, the Security Council was made to issue a statement condemning Eritrea without ascertaining the facts independently and objectively. The Security Council later decided to send a fact-finding mission to Eritrea. Eritrea could not accept, both as a matter of principle and in terms of judicious procedure, an *ex post* visit by the mission when the Security Council had put the cart before the horse and already condemned Eritrea unjustly.

In the subsequent months, Djibouti and its allies unleashed orchestrated diplomatic campaigns to "condemn" Eritrea in every regional and international forum. The apparent intention was to blight the image of Eritrea in order to absolve the parties that are really culpable for acts of aggression and destabilization in the region. Whereas Ethiopia had and continues to flagrantly violate international law as well as the Charters of the United Nations and the African Union to occupy sovereign Eritrean territories, these organizations started to censure and condemn Eritrea while conveniently ignoring Ethiopia's veritable and grave acts of aggression.

This is the political and diplomatic backdrop to Security Council resolution 1907 (2009). Anxious that it might not succeed in imposing sanctions on Eritrea if the accusations are limited to Somalia, the United States amalgamated Somalia and Djibouti with a view of projecting an image of "preponderant" evidence of Eritrean misdemeanour. But as elucidated above, these accusations are hollow and politically

motivated. This is underscored by the prompt statement of the United States State Department condemning Eritrea, the Security Council's decision to follow suit and condemn Eritrea prematurely, as well as the decision to send a fact-finding mission after the resolution as an after-thought. Resolution 1907 (2009) must accordingly be scrapped as the Security Council should not interfere to take a lopsided position before the accusations levelled by Djibouti are ascertained independently and legally. This would allow the two sides to address their differences through the mechanism that was contemplated early on, and to which Eritrea is committed.

Enclosure IV

Eritrea's submission to the Security Council on peace and justice in Somalia

For the past 19 years, Somalia has been gripped in a spiral of internecine conflicts and intractable clan cleavages without respite. It has been virtually reduced to a theatre of chronic rivalry between warlords with ever-shifting alliances. In spite of its relative ethnic, racial and religious homogeneity, especially by African standards, Somalia remains today fragmented into several mini-States: Somaliland, Puntland, Benadirland etc. The country has become the "epitome" of a "failed State" with all the tragic consequences that this implies for its citizens.

The extortion of its citizens by ruthless and callous warlords; the mushrooming and proliferation of piracy along its coasts and adjacent sea lanes; the unconscionable plundering of its maritime resources by extraneous forces; the instrumentalization of the weak and fragmented entities by neighbouring countries both to extract unfair and illicit agreements or to use these fragile mini-States as an appendage of their domestic economies are some of the disturbing realities that this simmering Somali situation has given rise to.

As a result of this poignant state of affairs, tens of thousands of Somalis have lost their lives. Hundreds of thousands more have been driven into internal dislocation; compelled to seek refuge abroad; and/or are living in very abject conditions. The crisis has gone beyond Somalia to affect the stability of the Horn of Africa as a whole. The situation is, furthermore, deteriorating from bad to worse almost on a daily basis.

Somalia's problems may have indigenous or local origins. But this is only part of the story. Perceived geopolitical considerations by major powers and regional actors, military involvement of external forces, misrepresentation of Somali political realities in the aftermath of September 11, and the failure of several ill-conceived peace initiatives have further compounded the internal commotion.

The crisis that we see unfolding today is the by-product of all these complications. Clearly, the complexity of the situation and the multiplicity of the actors cannot be a reason to absolve the main internal and external players who have wilfully exacerbated the crisis in Somalia to induce gross and unparalleled sufferings on its population. Eritrea maintains that the Security Council ought to launch a comprehensive investigation of the crisis in Somalia from its origins through its truncated evolution with a view to finding a durable solution and ending impunity.

In Eritrea's views, those who bear prime responsibility for the immense sufferings of the Somali people are: (i) Somalia's warlords; (ii) Somalia's immediate neighbours; and (iii) the misguided policies of successive United States Administrations.

(i) Somalia's warlords

Somalia's warlords are primarily responsible for the turmoil and mayhem that has seized Somalia since 1991. The practices of flagrant extortion, banditry, piracy and wanton killing of civilians and ransacking of their property are war crimes that cannot be justified by the absence and fragmentation of central political authority.

(ii) **Somalia's immediate neighbours**

Ethiopia: Among Somalia's immediate neighbours, Ethiopia bears highest responsibility for its intermittent military invasions of Somalia and other deliberate acts aimed at destabilizing the country in order to make it fragile and divided. Ethiopia's motivations emanate from historical animosity between the two countries — Ethiopia and Somalia had gone to war twice (1964 and 1977) prior to the current crisis — on account of the Ogaden. Ethiopia used this historical baggage and its domestic internal problems to work relentlessly since 1991 to bring about the fragmentation of Somalia. Ethiopia was instrumental in encouraging the unilateral separation of Somaliland without due process of law and popular plebiscite. Furthermore, Ethiopia violated Security Council resolution 1725 (2006) to invade Somalia at the end of 2006. Ethiopia's invasion was responsible for the displacement of around half a million Somalis and the death and maiming of thousands. It must be borne in mind that Ethiopia's invasion of Somalia represented a clear act of aggression and violation of international law.

Kenya and Djibouti: These two Governments are also increasingly involved in exacerbating the current crisis in Somalia. Both countries have historically had strained relations with independent Somalia since the 1960s because of their adjoining regions and territories (French Somaliland (Djibouti) and the North-Eastern District in Kenya) invariably inhabited by ethnic Somalis and which were incorporated — in constitutional terms — by the newly independent Somalia. With the encouragement of the United States, both Kenya and Djibouti have increasingly augmented their involvements in the internal affairs of Somalia in the recent years further polarizing and poisoning the Somali political landscape.

The misguided policies of the United States: In 1992, the Bush Administration decided to intervene in Somalia under "humanitarian" considerations. At the time, many in the region, including Eritrea, had voiced their reservations about an external military intervention that was not predicated on a well-though-out peace formula. United States military presence in Somalia came to an abrupt end when a mission by United States forces to capture General Aideed was ambushed and several United States army men were killed and brutally dragged in the streets of Mogadishu. The United States was largely absent from the Somali political arena until recent times. But its recent interventions under the rubric of "combating terrorism" have not only been counterproductive but have contributed to worsening the situation in Somalia. The United States provided financial support to notorious warlords in 2006 in its ill-conceived efforts to counter-balance the growing influence of the Union of Islamic Courts. Washington then pushed Ethiopia to invade Somalia in contravention of international law and Security Council resolutions. In the past years since then, United States jet bombers and drones have carried out several aerial bombings in Somalia and also provided arms, further inflaming the situation.

Eritrea requests a sober assessment of these facets of the Somali crisis with a view to taking remedial action. Eritrea further believes that a durable and viable solution to the Somalia crisis should be predicated on:

(i) The long-term objective must be the restoration of a unitary Somali State with effective institutions of central government.

(ii) If the desire is to divide Somalia into several mini-States (Somaliland; Puntland; Jubaland; Benadirland etc.), this should transpire only when and after the requisite legal and political processes are consummated. To tolerate as accomplished facts the proliferation of fragmented and non-sovereign entities for an indefinite period of time is not only devoid of legal, political and moral justifications but it is also tantamount to relegating the Somali people and the Horn of Africa region to a situation of perpetual crisis and destruction.

(iii) A "Transitional Political Arrangement", which paves the way for achieving the ultimate goal or which can be operational in the interim period, needs to be in place. To this end, a "Transitional Administration" would be formed with a clear mandate and for a specific time frame. (The flawed approach, repeated three times in recent years, of imposing in Mogadishu an externally established government with presumed sovereign legitimacy and authority on the country as a whole must be avoided for obvious reasons.)

(iv) In order to expedite the formation of the "Transitional Political Arrangement" and the "Transitional Administration", an inclusive political process would be set in motion. It must be recognized that this process cannot be achieved through a quick fix. It would also be vital to ensure that the process is not hampered and distorted by unacceptable preconditions and/or the exclusion of important stakeholders. In this regard, the role of facilitators would be critical.

(v) The vital issue of the "very survival of Somalia" should not be intertwined with the problem of "terrorism". The "war against terror" must be identified clearly by mapping out a common strategy as well as the mechanism of its implementation. In this connection, it must be acknowledged that the ultimate remedy rests on the existence of an effective Somali Government that is equipped with effective institutions of defence and security. Other alternative or interim arrangements will not indeed bring about a lasting solution.

(vi) That the United States can play a pivotal and constructive role is evident indeed. It is however essential that it disengage first from its ongoing, ill-advised involvement. This will require a fresh start and a new engagement on the basis of revised policies and strategies.

Attachment 1

Exchange of letters

Personal letter sent by President Isaias Afwerki to Prime Minister Melles Zenawi on 16 August 1997 protesting the forcible occupation of Adi-Murug in Bada by the Ethiopian army

Comrade Melles,

Greetings.

I have been compelled to write to you today because of the preoccupying situation prevailing in the areas around Bada.

It cannot be said that the border between our two countries is demarcated clearly although it is known traditionally. And we have not given the issue much attention in view of our present and future ties. Moreover, I do not believe that this will be a cause of much concern and controversy even in the future.

Be this as it may, there have been intermittent disputes in the border areas arising from different and minor causes. Local officials have been striving to defuse and solve these problems amicably. However, the forcible occupation of Adi-Murug by your army in the past few days is truly saddening.

There was no justification for resorting to force as it would not have been at all difficult to settle the matter amicably even if it was deemed important and warranting immediate attention. It would also be possible to quietly and without haste demarcate the boundaries in case this is felt to be necessary.

I, therefore, urge you to personally take the necessary prudent action so that the measure that has been taken will not trigger unnecessary conflict.

Best regards
Your comrade
Isaias Afwerki

Response of Prime Minister Melles to the letter of President Isaias of 16 August 1997

(The letter also addressed other bilateral issues which are not translated here.)

Comrade Isaias,

Greetings.

I have seen the letter you sent me. I had also heard that the situation in the border areas does not look good. I was also informed that the matter was discussed between your colleague (Yemane), who had come here, and ours (Tewolde). We did not imagine that what happened in Bada could create problems, because the areas our comrades are controlling were not controversial before and we believed that prior consultation was only necessary for disputed areas. We moved to the areas to pursue the remnants of Ougugume (Afar opposition) who were obstructing our peace efforts from positions there. We believe we can ease the tension concerning the borders on the basis of the understanding reached previously between your team and our colleague (Tewolde). Perhaps it is also necessary to settle the border demarcation issue after the necessary preparations are carried out by both sides.

Second letter from President Isaias to Prime Minister Melles, dated 25 August 1997

(The letter contains material on other bilateral business which is not translated here.)

Comrade Melles,

Greetings.

Regarding the situation in the border areas, my information establishes that the measures taken at Adi-Murug were not in areas that are undisputed but in our own areas and by expelling our officials and dismantling the existing administration. Concerning the Ougugume, your action (in Adi-Murug) came as our Defence was preparing to cooperate on the basis of the request from your Army. Moreover, similar measures have been taken in the Badme area.

As I had indicated to you, these measures are unjustified. In order to expediently check any further deterioration and pave the way for a final solution, we have assigned on our part there officials (Defence Minister Sebhat Ephrem; PFDJ Head of Political Affairs, Yemane Ghebreab; and National Security Advisor, Abraha Kassa) I suggested that you also similarly (or in ways you think best) assign officials so that both sides can meet as soon as possible to look into these matters. I await your thoughts.

...

Best regards
Your Comrade
Isaias Afwerki

Attachment 2

Letter dated 19 September 2003 from the Prime Minister of Ethiopia to the Secretary-General

I am writing to you to seek your assistance to help us overcome the challenge that the peace process between Ethiopia and Eritrea is facing. Despite the veneer of normalcy in the work of the Boundary Commission, I am afraid the work of the Commission is in terminal crisis.

The key to the crisis of the work of the Commission is its totally illegal, unjust, and irresponsible decision on Badme and parts of the Central Sector. The Colonial treaties which are the basis of the Algiers Agreement and which should have been the key basis for the delimitation and demarcation of the boundary leave Badme inside Ethiopia. This is also the Commission's own interpretation of the relevant Treaty. Nonetheless, the Commission chose to base its decision on state practice, and having done so, it went on and awarded Badme to Eritrea despite the overwhelming evidence produced by Ethiopia proving that Badme had always been administered by Ethiopia. Eritrea could not produce even a single document to rebut Ethiopia's submission. The Commission's decision which was allegedly based on state practice also ended up splitting a single village and even a single homestead between the two countries. Its decisions in some parts of the central sector are equally illegal, unjust and irresponsible.

Badme, having been the first Ethiopian village to be occupied by Eritrea at the start of the Eritrean aggression, is the casus belli for the war between Ethiopia and Eritrea. Obviously, it does not require great wisdom to see how symbolically important the village is for the people of Ethiopia who have paid so much in blood to reverse the Eritrean Aggression and liberate Ethiopian lands, including Badme. It is unimaginable for the Ethiopian people to accept such a blatant miscarriage of justice. The decision is thus a recipe for continued instability, and even recurring wars.

The Boundary Commission admits that there are indeed anomalies in its decision but states that it is unable to correct them unless the parties give it an additional mandate. The Commission cannot be unaware of Eritrea's total rejection of dialogue on demarcation. Nothing worthwhile can therefore be expected from the Commission to salvage the peace process. Indeed, the Commission seems to be determined to continue its disastrous stance whatever the consequence to the peace of the region. Under these circumstances, I believe only the Security Council can salvage the peace process. It is to be noted that the Boundary Commission has itself acknowledged the responsibility of the United Nations, in accordance with the Algiers Agreement, to assist the two parties overcome challenges they might face in the process of delimitation and demarcation. As the Commission's decisions could inevitably lead the two countries into another round of fratricidal war, the Security Council has an obligation, arising out of the Charter of the United Nations, to avert such a threat to regional peace and stability.

It is therefore in this spirit and with the conviction that it will be possible to break the present deadlock, that Ethiopia is making the following proposals. Ethiopia hopes that the Security Council, the witnesses and guarantors of the Algiers Agreement and the Secretary-General will help the two parties achieve the objective and purpose of the Algiers Agreement.

1. Ethiopia's ultimate concern is achievement of durable peace and stability. Accordingly, as a sign of its full commitment to durable peace between Ethiopia and Eritrea, Ethiopia, while reaffirming its commitment under the Algiers Agreement, stands ready to enter into a formal commitment to reject the use of force as a means of resolving disputes and calls upon Eritrea to do the same.

2. Ethiopia supports the suggestion made by the Secretary-General of the United Nations contained in his 23 June and 4 September 2003 reports to the Security Council, as well as what is referred to in operative paragraph 6 of Security Council resolution 1507 (2003) with respect to assistance by the international community to help the two parties meet their joint obligations for durable peace between them.

3. In this regard, I believe it is crucial that the Security Council set up an alternative mechanism to demarcate the contested parts of the boundary in a just and legal manner so as to ensure lasting peace in the region. The alternative mechanism could be composed of the guarantors and witnesses of the Algiers Agreement and representatives of the two parties. Ethiopia is ready to address the problem through such a mechanism.

4. The uncontested parts of the Boundary, specifically the whole eastern Sector of the Boundary and that part of the Central Sector where the river Mareb constitutes the boundary, can be demarcated without waiting for the setting up of the alternative mechanism. The alternative mechanism's mandate can be limited to the contested parts of the boundary.

5. In the meantime, Ethiopia will recognize the current status quo, which is the Southern boundary of the Temporary Security Zone, as the boundary between the two countries. Pending completion of the demarcation process, the mutual commitment by both parties to resolving their boundary problems peacefully will make it possible, if the international community so wishes for financial reasons, to expedite the departure of UNMEE.

6. Ethiopia is willing to consider any ideas that could lead to a just and legal process of demarcation of the boundary and can therefore ensure lasting peace in the region.

(*Signed*) Meles **Zenawi**
Prime Minister of the Federal
Democratic Republic of Ethiopia

Attachment 3

Press statement of the Ministry of Foreign Affairs of Eritrea, dated 26 April 2007

Eritrea's decision to freeze its membership in IGAD

The historical ties of friendship and cooperation between the peoples of Eritrea and Somalia go back centuries. These ties were particularly cemented towards the end of the 19th century through a common colonial experience. The subsequent, post-World War II, historical juncture where the destiny of both peoples was subordinated to the perceived strategic interests of the United States in the Horn of Africa and the Indian Ocean further fostered the communality of, and solidarity between, their respective struggles.

This pattern has continued to prevail without basic alteration in our times. The fact is both peoples have again become victims of the United States strategy of domination after the end of the cold war and at the advent of the new millennium. This imposed reality has inevitably augmented the friendship and solidarity between their respective struggles.

In all these historical instances, ruling groups in Addis Ababa who do not represent the Ethiopian people have served as appendages to, and tools of, major powers.

The destruction and mayhem wrought in the Horn of Africa by the United States strategy of domination and the subservience of Ethiopian ruling regimes is immense indeed. This can only provoke resistance by, and aspirations for, independence and liberation through just peoples' struggles. The recent invasion of Somalia and the resistance that it has engendered by the people of Somalia must indeed be seen from this perspective.

It must also be recalled that the United States was instrumental in complicating and exacerbating the border conflict between the Eritrean people and the TPLF regime as well as in obstructing the implementation of the Award of the Boundary Commission. The baseless accusations peddled these days by United States Administration officials claiming that Eritrea is "involved in Somalia in order to frustrate Ethiopia" is prompted both by the desire to conceal these facts and to shirk responsibility.

The responsibility to redress the sufferings, destruction and crisis that is besetting the Horn of Africa as a result of domination and invasion does not lie on the shoulders of the Somali and Eritrean peoples alone. Primary responsibility for this duty rests with the peoples and Governments of the Horn of Africa countries as a whole.

In this connection, Governments in the region that are either condoning the invasion and domination of Somalia and the sufferings meted out to its people or that have chosen to keep silent, for reasons of narrow self-interest or due to lack of information cannot, ultimately, shrug their responsibilities.

For its part, Eritrea is not willing to endorse invasion and domination under the umbrella of IGAD and be party to the atrocities perpetrated against the Somali people in contravention of justice and truth.

Attachment 4

Letter dated 15 December 2009 from the Minister for Foreign Affairs of Eritrea to the Assistant Secretary of State, Bureau of African Affairs, of the United States of America

Asmara, 15 December 2009

I wish to thank you for your response of December 6. As you will recall, I had proposed tentative dates for the meeting in Washington or Asmara, and should that turn out to be not desirable, in any other neutral place of mutual convenience. I have noted that your response does not indicate possible dates although it is specific, in a negative sense, in terms of venue.

You state in your letter that the amelioration of our bilateral ties will depend on Eritrea's willingness to "resolve several long-standing differences with the United States; that the (Eritrean) government terminates its support to Al Shabaab; and, that Eritrea plays a more responsible role in the region". Your letter also refers to other impending incidents on which Eritrea was expected to take remedial action as a demonstration of its "willingness to have a positive relationship with the United States".

I shall try to address these issues. But let me first emphasize the following:

The principal reason why we sought a meeting with the Secretary of State was because there were several issues of profound importance that could only be tackled, in our view, through a direct meeting at that level. (Various meetings in the past, including at the Inter-Agency level in Asmara in 2004, took us nowhere.) We deliberately refrained, in our several communications to Your Government, from spelling out our grievances because we felt that starting with acrimonious exchanges would not be helpful.

As I will specify later, Eritrea is and has been the wronged party for at least ten years in this second phase of hostilities. But President Obama's election and the promise of change — both domestic and international — that he fervently espoused instilled fresh hope on the world stage at large and engendered in us the will to taste the waters in a positive and constructive spirit in spite of all the wrongs of the past. This was the backdrop of the letter of President Isaias to President Obama of April 21 this year in which he emphasized: "...We harbor fervent hopes that ... the pledge Your Excellency has undertaken to bring about change will bring results commensurate to the high expectations .... In this spirit, I would like to assure you that in order to pave the way for your positive contributions, we are determined to shoulder our responsibilities ... and look forward to the commencement of a constructive dialogue with Your Administration." President Isaias's letter went further to talk about preferred modalities to state: "... The inherited problems that are bedevilling our region are complex indeed. We are aware that these problems cannot override other important priorities to draw your attention at this point in time. In this context, allow me to humbly suggest an approach that is firmly anchored on patience; that is not derailed by premature judgments and pronouncements; and, that is rooted on a profound assessment of the genesis and dimensions of the prevailing realities."

Unfortunately, the response we received fell far short of our expectations and seems to have been deliberately crafted to block engagement. Indeed, it insinuated conditionalities that must be fulfilled by Eritrea prior to the occurrence of the desired bilateral meeting.

In the meantime, unfriendly acts continued to be perpetrated against Eritrea by the new Administration with almost the same intensity and frequency as before. To cite a few for illustrative purposes:

1. The US Embassy in New York has been feverishly engaged in the past five months to impose unprecedented sanctions against Eritrea. This act of unjustifiable hostility has opened old wounds reminding the people and Government of Eritrea that the United States is again poised to harm and compromise their national security to advance its own perceived interests. The price in human life and in lost opportunities that Eritrea had to pay in almost half a century of legitimate resistance on account of US policies in the Cold War period were colossal especially in relation to the size of its small population. For Eritrea to be wronged twice at this juncture and at the hands of a new Administration in Washington that infused hope by promising fairness and justice in its international dealings is beyond explanation and, if I may say so, beyond pardon.

2. In June this year, President Obama signed Executive Order 1349 putting Eritrea in the league of "human trafficking" nations and imposing a series of financial sanctions against it. What is baffling in this measure is that it is in fact the US Administration that should have been indicted for wilfully inducing human flight from Eritrea for reasons better known to it. In 2004, the US Government employed the services of the UNHCR to encourage the entire Kunama language group in Eritrea to seek and obtain asylum in the United States. Again in February this year, the Bureau of Refugees in the State Department announced that it has allocated asylum rights for 10,000 Eritrean youth who may desert the National Service. (This act in fact violates US laws against army deserters as well as undermining the elaborate extradition proceedings that the Pentagon routinely resorts to so as to bring to court US army deserters from Iraq and other war zones who seek asylum in third countries.)

3. The Obama Administration has continued the annual and offensive ritual of designating Eritrea as "a Country of Concern for practicing religious persecution".

4. The previous US Administration routinely flouted international law to extend diplomatic and political shields to Ethiopia and to prevent the United Nations Security Council from taking appropriate action against it for its occupation of sovereign Eritrean territories in contravention of the Algiers Peace Agreement and the Charter of the United Nations. This unwarranted act has not been seriously reviewed to date by the Obama Administration in spite of its grave implications to the prevalence of peace and stability in the Horn of Africa region. On the contrary, the US Embassy in New York remains engrossed in its misguided efforts to impose draconian sanctions against Eritrea.

5. In April 2004, US officials in the Homeland Security raided the Eritrean cultural center, manhandled Eritrea's diplomatic agent and confiscated close to 1 million dollars in cash from the safe box as well as Embassy documents in contravention of the basic tenets of the Vienna Conventions on Diplomatic

Privileges and Immunity. Repeated efforts by our Embassy to seek redress and ensure the return of the confiscated money have been to no avail. Incidentally, even this relatively minor problem has not been addressed by the new Administration as a token of goodwill and/or in order to send a positive signal of a potential policy shift.

6. There are other murky and graver acts of interference in Eritrea's domestic affairs that occurred in the past years which I do not want to elaborate here.

I could go on and on. But this would be meaningless. We have not been seeking a bilateral meeting at senior levels in order to trade mutual accusations. We are principally interested in a high-level meeting with a forward-looking mode in order to close the dark chapters of the past and start a new chapter of healthy ties that bodes well for the welfare of the peoples of Eritrea, the Horn of Africa Region and the United States of America. This will certainly require a candid assessment of the events and causes of past wrongs and misunderstandings. But, in our modest view, it must go beyond this suffocating horizon to envision a brighter future.

In conclusion, if I may briefly address the grievances you have listed in your letter:

1. The allegation that Eritrea extends military support to Al Shabaab has been advanced without any substantiation. If there is evidence to support the accusation, this must be presented. But more importantly, Eritrea candidly believes that US policy in Somalia is not rooted on sound appreciation of the Somali reality. In our view, current US policy in Somalia will not promote peace and stability in Somalia and the wider Horn of Africa region. It will not also serve the interests of the United States. On our part, we do not hesitate to exchange views and we shall continue to seek a durable solution for the crisis in Somalia that promotes the welfare of the Somali people and the interests of regional peace and stability.

2. In regard to incident of the diplomatic pouch, the isolated measure by the customs' authorities is, in our view, within the bounds of the Vienna Convention on Diplomatic Relations. The standard procedure in practice consists of asking the concerned Embassy to allow opening of the pouch (other than documents) if the screen illustrates equipment no allowed by the Convention or other domestic laws; including the provisions of ICAO.

3. Ambassador McMullen has not submitted his credentials. This will be done when it is appropriate. But it must be recalled that he had long submitted a copy to me as the Minister of Foreign Affairs.

4. The Secretary of State was misinformed on the issues prior to her phone call to President Isaias. In the event, President Isaias did not want to exchange accusations over the phone. Nonetheless, it was later communicated that the President wished to send an envoy to Washington to convey to the Secretary of State Eritrea's views and perspectives on all these issues.

I had gone into these rather long details because your letter touched on some of them. Our wish remains otherwise to create the conditions for extensive dialogue in the hope that the US Administration is prepared to look into the relationship with

a new and constructive prism. Under these circumstances, I am prepared to meet with you in any third country at the earliest time of your convenience, though our preference remains our respective capitals for a venue.

(*Signed*) Osman **Saleh**
Minister